

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JERRY WORD,

Petitioner,

Case No. 2:20-cv-10352  
Hon. Victoria A. Roberts

v.

JOHN CHRISTIANSEN,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE (1) PETITIONER'S MOTION TO  
COMPEL DISCOVERY [ECF No. 2], AND (2) PETITIONER'S MOTION TO  
ADVANCE AND EXPEDITE [ECF No. 11]**

This is a habeas action brought by a state prisoner under 28 U.S.C. § 2254. Petitioner seeks an order compelling Respondent to produce materials he alleges are necessary to a review of his substantive claims. Petitioner's motion to expedite proceedings asserts that he requires the discovery materials now so that he can reply to Respondent's responsive pleading. Respondent argues that Petitioner's claims were either reasonably adjudicated by the state courts or barred by procedural default.

At root, Petitioner moves for the production of police reports and other documents in an attempt to undermine the weight of the evidence presented against him at trial. These new materials, it appears, were not part of the state court record on direct appeal. In *Cullen v. Pinholster*, 563 U.S. 170, 181-82 (2011), the Supreme Court held that where habeas claims have been decided on their merits in state court, a federal court's review under 28 U.S.C. section 2254(d)(1)—whether

the state court determination was contrary to or an unreasonable application of federal law—is limited to the record reviewed by the state courts. So at this stage of the proceedings—until the Court determines that Petitioner has satisfied section 2254(d) review—the materials are not pertinent to review of the state court adjudication of Petitioner’s claims. The Court denies these motions without prejudice. The Court must first review the record and the state court adjudication of Petitioner’s claims and decide if a production of the records is warranted. The Court will reconsider Petitioner’s request on its own motion if it determines that some or all of his claims survive review under section 2254(d) without the need for Petitioner to file an additional motion.

Petitioner’s motion to compel discovery and motion to advance and expedite proceedings are **DENIED WITHOUT PREJUDICE**.

**ORDERED.**

s/ Victoria A. Roberts  
Hon. Victoria A. Roberts  
United States District Judge

Dated: 9/17/2020